

Subpart C—Disability Under the Railroad Retirement Act for Work in an Employee's Regular Railroad Occupation

§ 220.10 Disability for work in an employee's regular railroad occupation.

(a) In order to receive an occupational disability annuity an eligible employee must be found by the Board to be disabled for work in his or her regular railroad occupation because of a permanent physical or mental impairment. In this subpart the Board describes in general terms how it evaluates a claim for an occupational disability annuity. In accordance with section 2(a)(2) of the Railroad Retirement Act this subpart was developed with the cooperation of employers and employees. This subpart is supplemented by an Occupational Disability Claims Manual (Manual)¹ which was also developed with the cooperation of employers and employees.

(b) In accordance with section 2(a)(2) of the Railroad Retirement Act, the Board shall select two physicians, one from recommendations made by representatives of employers and one from recommendations made by representatives of employees. These individuals shall comprise the Occupational Disability Advisory Committee (Committee). This Committee shall periodically review, as necessary, this subpart and the Manual and make recommendations to the Board with respect to amendments to this subpart or to the Manual. The Board shall confer with the Committee before it amends either this subpart or the Manual.

[63 FR 7541, Feb. 13, 1998]

§ 220.11 Definitions as used in this subpart.

Functional capacity test means one of a number of tests which provide objective measures of a claimant's maximal work ability and includes functional capacity evaluations which provide a systematic comprehensive assessment of a claimant's overall strength, mobil-

ity, endurance and capacity to perform physically demanding tasks, such as standing, walking, lifting, crouching, stooping or bending, climbing or kneeling.

Independent Case Evaluation (ICE) means the process for evaluating claims not covered by appendix 3 of this part.

Permanent physical or mental impairment means a physical or mental impairment or combination of impairments that can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months.

Regular railroad occupation means an employee's railroad occupation in which he or she has engaged in service for hire in more calendar months than the calendar months in which he or she has been engaged in service for hire in any other occupation during the last preceding five calendar years, whether or not consecutive; or has engaged in service for hire in not less than one-half of all of the months in which he or she has been engaged in service for hire during the last preceding 15 consecutive calendar years. If an employee last worked as an officer or employee of a railway labor organization and if continuance in such employment is no longer available to him or her, the "regular occupation" shall be the position to which the employee holds seniority rights or the position which he or she left to work for a railway labor organization.

Residual functional capacity has the same meaning as found in § 220.120.

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§ 220.12 Evidence considered.

The regulations explaining the employee's responsibility to provide evidence of disability, the kind of evidence, what medical evidence consists of, and the consequences of refusing or failing to provide evidence or to have a medical examination are found in § 220.45 through § 220.48. The regulations explaining when the employee may be requested to report for a consultative examination are found in § 220.50 and § 220.51. The regulations explaining how the Board evaluates conclusions by physicians concerning the employee's disability, how the Board evaluates the

¹The Manual may be obtained from the Board's headquarters at 844 North Rush Street, Chicago, IL 60611.